

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of:	)	
	)	PS Docket No. 06-229
Petitions for Waiver to Use	)	
the 700 MHz for Regional Public	)	
Safety	)	
Broadband Communications	)	
	)	

**PETITION FOR CLARIFICATION**

The Harris Corporation (“Harris”), pursuant to 47 C.F.R. §1.41, respectfully seeks clarification of the Federal Communications Commission’s (“Commission”) Public Safety and Homeland Security Bureau (PSHSB) decision in: Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket No. 06-229, *Order Granting the State of Texas Petition for Early Deployment of a Statewide Public Safety Wireless Broadband Network in the 700 MHz Public Safety Broadband Spectrum* (May 12, 2011) (“Texas Waiver Order”). Harris requests that the Commission clarify that it does not endorse any procurement model for building an interoperable public safety broadband network on a local, regional, state, or nation-wide basis. Without such a clarification, public safety entities at all levels could interpret the Texas Waiver Order as a mandate to build a broader network with the same sourcing and procurement practices as that selected by a locality or other smaller entity for a local network.

## I. BACKGROUND.

On May 12, 2010, 21 Petitions for Waiver to deploy local or regional public safety broadband networks in the public safety broadband spectrum were granted by the Commission.<sup>1</sup> In the Waiver Order, in justifying that states are the most appropriate geographic size for consideration of waiver relief, the Commission emphasized that technology development and competition are essential to providing first responders reasonably priced equipment as waiver grantees build interoperable networks, and that “state-level waiver deployments will facilitate equipment development and purchase, by ensuring that there is a critical mass of potential users.”<sup>2</sup> On December 10, 2010, the Bureau issued an Order establishing technical network requirements and providing even greater detail on baseline criteria for grantees.<sup>3</sup>

In September 2010, the State of Texas (“Texas”) sought a waiver seeking early deployment of a statewide public safety wireless broadband public safety network in the 700 MHz public safety broadband spectrum pursuant to Commission rules.<sup>4</sup> As Harris

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<sup>1</sup> Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket 06-229, Order, 25 FCC Rcd 5145 (2010) (“Waiver Order”).

<sup>2</sup> *See id.* at 5162.

<sup>3</sup> *See* Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket No. 06-229, Order, 25 FCC Rcd 17156 (PSHSB Dec. 2010) (“Interoperability Order”).

<sup>4</sup> *See* State of Texas Petition for Expedited Waiver, PS Docket No. 06-229 (filed Sept. 17, 2010) (Texas Waiver). *See also* Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket 06-229, Order, 25 FCC Rcd 5145 (2010) (Waiver Order); Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz

County, Texas secured \$10 million in federal funding that must be expended or encumbered by June 30, 2011, Texas asked the Commission to expedite its petition in February 2011.<sup>5</sup> Harris County, Texas is building a Motorola public safety communications system using Federal funds; the award of the network project to Motorola was based upon a sole source contract and not a competitive bidding process. It should be noted that, at this time, it is not clear whether Motorola's technology will ensure public safety interoperability at the application, device, and network levels among networks provisioned by different vendors.<sup>6</sup>

Subsequently, the Commission, through authority delegated to the PSHSB, granted the Texas Expedition Request in large part "to preserve the specific funding availability identified for its constituent jurisdiction, Harris County, [Texas] which has secured \$10 million in federal funding that must be expended or encumbered by June 30, 2011."<sup>7</sup>

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Interoperable Public Safety Wireless Broadband Networks, PS Docket No. 06-229, Order, 25 FCC Rcd 17156 (PSHSB Dec. 2010) (Interoperability Order).

<sup>5</sup> See State of Texas Petition for Expedition, PS Docket No. 06-229, at 1 (filed Feb. 18, 2011) (Texas Expedition Request).

<sup>6</sup> See Letter from Michael A. Lewis, Engineering Consultant, Wiley Rein, LLP, to Marlene H. Dortch, Secretary, Federal Communications Commission (March 16, 2011) ("unless jurisdictions have previously reached agreement on the use of a given application, roaming users may not be able to access that application even though they will be able to operate")

<sup>7</sup> Texas Waiver Order at ¶ 1.

II. THE COMMISSION’S ACTION IN THE TEXAS WAIVER ORDER COULD IMPLY A MANDATE TO BUILD A BROADER PUBLIC SAFETY NETWORK WITH THE SAME PROPRIETARY TECHNOLOGIES AND PROCUREMENT PRACTICES OF A LOCAL NETWORK.

The Texas Waiver Order made the following statement: “...we also expect that constituent jurisdictions will work with the state to minimize duplicative expenses and facilities where appropriate, in order to limit the need for multiple system identifiers or other impediments to interoperability.”<sup>8</sup> Harris believes that this statement inadvertently implies a statewide mandate to build a network with the same vendor-specific technologies included in a local core network. Such an interpretation may result in a state or region believing it is compelled to apply the same procurement practices and sourcing model – in this case a sole sourcing model – as that used by a local entity. This would lead to increased network build-out and operational costs from lack of competition and a statewide or regional monopoly by one vendor company. This is of particular concern in the instant case as Texas contemplates construction across all of its 256 counties. Moreover, should this interpretation be applied in future Orders by the Commission without clarification, there could result a lack of nationwide interoperability due to inconsistencies among states and/or regions with respect to incongruent communication features. Accordingly, the Commission’s goal of enhancing interoperability and network deployment through economies of scale and competition could be significantly frustrated.<sup>9</sup>

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<sup>8</sup> Texas Waiver Order at ¶ 16.

<sup>9</sup> See Waiver Order at 5162.

Harris submits that nationwide public safety broadband communications interoperability hinges on the facilitation of a robust supply chain fostered by multi-source procurement practices to ensure that all levels of government will procure essential capabilities in a cost-effective manner. Interoperability therefore should be seen as the capability for Public Safety organizations to procure the building blocks of the network and devices that are interchangeable and can be used together regardless of brand or network location. However, the PSHSB's language in Paragraph 16 of the Texas Waiver Order could be interpreted to mandate a single or sole source procurement model on a state, regional, or even national level. This could severely limit interoperability by precluding competition and chilling innovations that link all suppliers' technology together for nationwide interoperability.

Given these consequences, Harris respectfully requests that the PSHSB make clear that nothing in the Texas Waiver Order shall be interpreted as a requirement or recommendation that Harris County's public safety network sole sourcing practice serve as a model or requirement for any other public safety entity, and that the PSHSB does not endorse or require any procurement model in building an interoperable broadband public safety network. Further, Harris requests that the PSHSB reiterate its commitment to speeding deployment of an interoperable public safety broadband network through competition and open standards.<sup>10</sup>

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<sup>10</sup> See generally The Honorable Julius Genachowski, letter to The Honorable Henry A. Waxman, Chairman, Committee on Energy and Commerce, U.S. House of Representatives (Jul. 20, 2010).

### III. CONCLUSION.

For the reasons detailed above, Harris urges the Commission to make the above-referenced clarifications.

Respectfully submitted,

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